REMARKS

Reconsideration and withdrawal of all grounds of rejection are respectfully requested in light of the above amendments and the following remarks. Claims 1-2 and 5-8 stand rejected under 35 U.S.C.§112, second paragraph, as allegedly being indefinite. Claims 1-2 and 5-6 stand rejected under 35 U.S.C.§103(a) as allegedly being unpatentable over Davis Jr. et al. (U.S.Patent No. 5,839,000) in view of Paalsgaard et al. (WO 92/14982). Claim 7 stands rejected under 35 U.S.C.§103(a) as allegedly being obvious over Davis in view of Paalsgaard in further view of Saruwatari (U.S.Patent No. 5,912,705). Claims 8-9 stand rejected under 35 U.S.C.§103(a) as allegedly being unpatentable over Davis in view of Paalsgaard and in further view of Lyons et al. (U.S.Patent No. 6,411,209). Claims 1, 2 and 5 through 9 are now pending herein. Base claims 1 and 5 have been amended to overcome the 35 U.S.C.§112, second paragraph and more distinctly claim the invention. .

It is respectfully submitted that none of the instant claims, as amended, are anticipated, or would they have been obvious to an artisan, at least for reasons given hereinbelow.

Amended independent claim 1 is directed to a device for remotely controlling a camera having a lens, said device comprising: a monitor operable to

display a field of view of the lens, the field of view including images of a plurality of objects; means for determining a first image of the images of the plurality of objects that is being gazed upon by a viewer by generating an image of the viewer's face, using a pattern recognition technique on the image of the viewer's face to determine an orientation of the pupils of the viewer's eyes; and means for selectively adjusting a zoom and a focus of the lens in a direction of the first image. Amended independent claim 5 recites similar limitations.

As indicated by the Office Action, Davis fails to disclose a Davis including means for determining a first image of a plurality of objects is being gazed upon by a viewer and means for selectively adjusting a zoom and a focus of a lens in a direction of the first image.

Further, Davis and Paalsgaard fail to disclose means for determining a first image of the images of the plurality of objects that is being gazed upon by a viewer by generating an image of the viewer's face, using a pattern recognition technique on the image of the viewer's face to determine an orientation of the pupils of the viewer's eyes.

Although, Saruwatari teaches an image processing apparatus with facility for extracting portions of image signals, the Office Action does not provide a rationale for the modification (only that there may be higher speed and accuracy

of recognition of a gazing point). In In re Lee, Slip Op. 00-1158 (Fed. Cir. Jan. 18, 2002) the court indicated that:

> The determination of patentability on the ground of unobviousness is ultimately one of judgment. In furtherance of the judgmental process, the patent examination procedure serves both to find, and to place on the official record, that which has been considered with respect to patentability. In finding the relevant facts, in assessing the significance of the prior art, and in making the ultimate determination of the issue of obviousness, the examiner and the Board are presumed to act from this viewpoint. ... The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.

Accordingly, Applicants respectfully submit that there would have been no motivation for one of ordinary skill to attempt to such a modification. Even if such a combination were possible, it would not arrive to the claimed invention, since Paalsgaard requires a carrier 5 arranged on a spectical frame in front of one eye of the person.

Applicants further respectfully note that it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set for in Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the

claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Applicants respectfully submit the Office Action has failed to make a prima facie case of obviousness.

At least for this reason Davis is not believed to teach each and every feature recited in the amended independent claims and therefore cannot anticipate these claims.

All claims dependent the independent claims discussed above are believed to be allowable at least for dependency there from, and for separate reasons of patentability.

The applicants have made a sincere attempt to advance the prosecution of this application by reducing the issues for consideration and specifically delineating the zone of patentablity. The applicants submit that the claims, as they now stand, fully satisfy the requirements of 35 U.S.C. 112 and 103. In view

of the foregoing amendments and remarks, favorable reconsideration and early passage to issue of the present application are respectfully solicited.

Respectfully submitted,

by

Mail all correspondence to:
US PHILIPS CORPORATION
580 White Plains Road
Tarrytown, NY 10591

Daniel Piotrowski, Reg. 42,079
Attorney for Applicants
Phone (914) 333-9624
Fax: (914) 332-0615

By:
Rick de Pinho
Reg. 41,703

CERTIFICATE OF MAILING

It is hereby certified that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

On March 1, 2004

By

Rick de Pinho, Reg. 41,703